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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------|-------------|----------------------|---------------------|------------------|
| 10/673,285 | 09/30/2003 | Henry C. Shires | TTT-001-A | 4750 |
| 32226 | 7590 | 03/20/2006 | EXAMINER | |
| NORTHERN MICHIGAN PATENT LAW, PLC | | | CANFIELD, ROBERT | |
| 526 W. FOURTEENTH ST. | | | | |
| #250 | | | ART UNIT | |
| TRAVERSE CITY, MI 49684 | | | PAPER NUMBER | |
| | | | 3635 | |

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,285

Applicant(s)

SHIRES, HENRY C.

Examiner

Robert J. Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>01/02/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. This is a first Office action on the merits for application serial number 10/673,285 filed 09/30/03. Claims 1-14 are pending.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: zipper 38a [0032] is not found. It appears that applicant has used reference numeral 39 in the figures for the zipper. Reference numeral 39 is not found in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The disclosure is objected to because of the following informalities: in paragraph [0029] rear arch pole"22" should be - - 26 - - as reference numeral 26 has been used to designate the rear arch pole.

Appropriate correction is required.

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 3-5 and 9-14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/673,286. Although the conflicting claims are not identical, they are not patentably distinct from each other because each of the claimed elements are included within the copending claims except for the single slidable guy line which is viewed as a choice of design which would have been obvious at the time of the invention to one having ordinary skill in the art.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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6. Claims 1, 2, 4 and 10-14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of copending Application No. 11/129,777. Although the conflicting claims are not identical, they are not patentably distinct from each other because each of the claimed elements are included within the copending claims except for the single slidable guy line which is viewed as a choice of design which would have been obvious at the time of the invention to one having ordinary skill in the art.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 4, 5, 9-10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by the 08/02/02 www.tarptent.com web page.

Using the internet archive Waybackmachine, the 08/02/02 version of the website, which is more than one year prior to the filing date of the instant application, provides each of the elements of the instant claims including the catenary ridgeline, front vertical straight pole, insect netting perimeter, rear arch support, guy lines, and awnings or beaks.

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the 08/02/02 www.tarptent.com web page.

The web page provides each of the elements of the instant claims as noted above except for specifying the rear arch guy lines are formed as a single slidable guy. To have formed the outer and central guy lines as a a single adjustable guy would have been obvious at the time of the invention to one having ordinary skill in the art to allow for a single adjustment to adjust all three lines.

11. Claims 1-4, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication 2001/0042563 to Coupounas.

Coupounas provides front a rear arch support poles with sleeves 22 and 24 respectively. Figure 3 shows front and rear awnings. What Coupounas fails to provide is that the shelter is floorless. It would have been obvious at the time of the invention to one having ordinary skill in the art that the shelter of Coupounas could have been formed without a floor. It would have been obvious to reduce the weight of the shelter as is known in the outdoor hiking/backpacking field.

12. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The IDS filed 01/02/04 has been received and considered. An initialed copy of the 1449 form is attached.

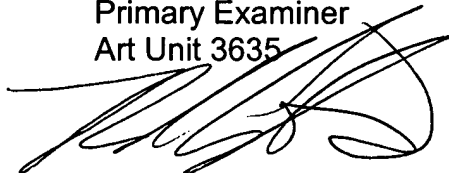
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
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A handwritten signature in black ink, appearing to read 'R. Canfield', is written over the printed name and title of the examiner.

03/16/06